

The facts, legal issues, and causes of action asserted by the parties in the present matter are substantially similar to those in the case of Beritelli, et al. v. Wells Fargo Bank, N.A., et al., No. 1:11-cv-00179-MR (W.D.N.C.), and the same attorney appears on behalf of the Plaintiffs in both actions. Even though these cases have not been consolidated, the decision of this Court in the Order previously entered in Beritelli addresses and disposes of all of the legal issues raised by the motion currently before

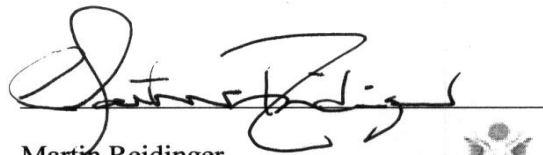
the Court in this matter. The Order in Beritelli, therefore, is incorporated herein, and the current motion will be disposed of in accord therewith.¹


ORDER

IT IS, THEREFORE ORDERED that the Defendant's Motion to Dismiss [Doc. 13] is **GRANTED IN PART** and **DENIED IN PART**. Specifically, with respect to the Plaintiffs' claim for negligent misrepresentation, the Motion to Dismiss [Doc. 13] is **GRANTED** and this claim is **DISMISSED**. In all other respects, the Motion to Dismiss [Doc. 13] is **DENIED**.

IT IS SO ORDERED.

Signed: September 30, 2013


Martin Reidinger
United States District Judge



¹ In arguing that all of the River Rock Plaintiffs' claims are barred by the applicable statutes of limitations, the Bank makes an additional argument directed specifically at the Ullmans' claims, namely, that the Ullmans were on actual notice of their claims at the latest by January 2009 when they filed a consumer complaint with the Federal Reserve. [See Doc. 14 at 9]. The Bank attaches an email purporting to contain the Ullmans' consumer complaint [Doc. 14-4], arguing that this email is a public record which the Court may consider without converting the motion to dismiss into a motion for summary judgment. This email, however, is neither integral to nor explicitly relied upon in the Ullmans' Amended Complaint. See American Chiropractic Ass'n v. Trigon Healthcare, Inc., 367 F.3d 212, 234 (4th Cir. 2004). Moreover, the Bank has not attempted to authenticate this document in anyway. Accordingly, the Court declines to consider this email in ruling on the Bank's motion to dismiss.